

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,

Plaintiff,

v.

DEMPSEY IVERY,

Defendant.

Case No. 09-CR-30159-MJR

ORDER

REAGAN, District Judge:

The Court **DENIES** Ivery's motion for leave to file his suppression motion (Doc. 127). The deadline for pretrial motions for Ivery, which would include a motion to suppress, was set to 21 days after his arraignment. (Doc. 52.) *See* Fed. R. Crim. P. 12(b)(3), (c), (e) (noting that motions to suppress must be raised before trial and allowing the Court to set a deadline after which pretrial issues not raised are waived). Ivery was arraigned on December 16, 2009, meaning that a motion to suppress was due on January 6, 2010.

The Court may relieve a party from the failure to raise a pretrial issue by the Court's deadline for good cause. *See* R. 12(e); *United States v. Garcia*, 528 F.3d 481, 484 (7th Cir. 2008). The only reason that Ivery seeks leave to file the suppression motion was that the United States gave a formal notice last week of its intent to introduce the evidence sought to be suppressed. *See* Fed. R. Evid. 404(b) (requiring the prosecution to give reasonable notice of its intent to introduce evidence of other crimes, wrongs or acts). This does not excuse the tardiness in filing the suppression motion. The evidence that he seeks to suppress was actually disclosed to him on December 21, 2009. That was more than six months ago. Ivery has not demonstrated good cause. *Cf. Garcia*, 528 F.3d at 485 (noting that good cause was not shown when counsel, who had substituted for another counsel four months ago, filed late pretrial motions when an extension could have easily been requested earlier).

If Ivery needed more time to go through the discovery in order to prepare a suppression motion, he should have asked for it much earlier than the eve of trial.

Because the Court denies leave to file the suppression motion, it also **DENIES** Ivery's suppression motion as untimely (Doc. 128).

IT IS SO ORDERED.

DATED July 2, 2010.

s/ Michael J. Reagan
MICHAEL J. REAGAN
United States District Judge